

Town of Franklin

355 East Central Street
Franklin, Massachusetts 02038-1352



Phone: (508) 520-4949
www.franklinma.gov

OFFICE OF THE TOWN ADMINISTRATOR

MEMORANDUM

DATE: June 14, 2023
TO: Jamie Hellen, Town Administrator
FROM: Julie Jacobson, Special Assistant to the Town Administrator
SUBJECT: Road Discontinuance Process

The following report is provided in response to your request to research the process to “close” a town road. The report has two sections: the legal processes for abandonment or discontinuance of public ways, and the process for how the town could abandon or discontinue all or a portion of Spring Street.

Discontinuing or abandoning roads is a complex issue and, as such, the public road in question must be researched in order to determine the process for that particular road. It is important for the Town to verify whether the road is a town or county road, or a public way at all. A determination also has to be made as to whether the town has a fee or easement interest (which provides the town an easement to travel across the land while the underlying land is owned by the abutters) in the public way. If the town owns the road in fee, then it owns both the right of travel as well as the land beneath the road. Once it is determined whether the interest is a fee or easement it must be determined how the town acquired this interest.

“Discontinuing Town and County Roads”¹ provides guidance on discontinuing town roads. The manual states that the phrase “discontinue a town road” is often mistakenly used interchangeably in two different ways: 1) to make the road no longer public, thereby ceasing maintenance and eliminating the public right of passage; or 2) simply to cease responsibility for maintenance. “The second use of the word is not correct. Discontinuing a road means that it is no longer a public road. Maintenance is a separate issue. Whether you want to discontinue the road or simply to terminate the Town’s obligation to maintain the way will determine the legal route for action.”

¹ By Lynn Rubinstein, Land Use Planner and Updated 2003 by Alexandra D. Dawson, Esq. 1990. The manual was originally written in 1990 by the Franklin County Planning Department through a grant from the Massachusetts Department of Public Works. It was updated in 2003 by The Trustees of Reservations’ Highland Communities Initiative.

To both cease maintenance and eliminate the public right of passage requires action to discontinue the way under (M.G.L. Chapter 82, Section 21). Ceasing responsibility for maintenance, but continuing the public right of passage (abandonment of maintenance) is accomplished pursuant to M.G.L. Chapter 82, Section 32A.

If the road was established by eminent domain vote, then the process to abandon the land or easements in the land falls under M.G.L. Chapter 40, Section 15. If the land was acquired in fee by eminent domain, and if the road is simply discontinued, public access is extinguished but a strip of publicly owned land will remain.

The manual identifies the potential consequences to discontinuing a road which include:

1. Once a road is discontinued it is no longer a public way. This could potentially impact the ability to build on parcels of undeveloped land that abut the discontinued way depending on local zoning. If local zoning requires frontage or access on a public way, what was once a legal building lot will lose that status when the road is discontinued. There is no grandfathering protection from this change of status. If local zoning is silent about the definition of a road, access, and frontage, then discontinuance of a road will not affect the ability of the land to be developed.
2. Case law that has demonstrated that when a road is discontinued and no right of passage is reserved in deeds or by prescriptive use for abutters, landowners nearer the public way have the right to bar abutters further up the road from passage over their land.² It is recommended that the Town work with abutters to ensure that such an easement for the right to travel is in place for landowners abutting the road before discontinuance. As an alternative, the town may want to consider the creation of a statutory private way to provide this access.
3. The Town is released from responsibility to maintain the road once it is discontinued (M.G.L. Ch. 84, Section 1).
4. The town is relieved from the legal liability for use of the road. (M.G.L. Ch. 84, Section 15).
5. M.G.L. Chapter 71, s. 68 states that school bus service cannot be compelled on a private way.

² "Discontinuing Town and County Roads" (Schuffels V. Bell, 21 Mass. App. 76 (1985), Cows V. Woicekoski, 7 Mass. App. 18 (1979)).

6. There will be fewer road miles in town based on the length of the road that is discontinued which will most likely reduce state and federal monies for road reconstruction and repairs.

7. M.G.L. Chapter 82, Section 24, provides that "any person sustaining damage...by the discontinuance of a town way...shall be entitled to recover...under said chapter seventy-nine." However, in the late 19th century, case law established that there are no damages to abutters of town roads that are discontinued unless they suffer damage unique to themselves, and not to the rest of the public. In a 1996 Warwick decision, *Nylander v. Potter*, 423 Mass. 158, the State's highest court ruled that monetary recompense (not access) is the only relief a plaintiff can seek in this case. The court stated plainly "A claim for monetary damages is only available if a parcel is rendered landlocked by the discontinuance of a public way." This ruling reversed a decision by the Appeals Court that the landowner on the discontinued road retained some kind of right to use it. The Warwick doctrine was confirmed by the Appeals Court in *Kiernan v. City of Salem*, 58 Mass Appeals Court 181 (2003).

Town Counsel Mark Cerel provided me with the attached document from Robert D. Smith, Barnstable Town Attorney. This document identified the three types of abandonment or discontinuance:

1. Abandonment of Maintenance (M.G.L. Chapter 82, Section 32A)
2. Discontinuance (M.G.L. Chapter 82, Section 21)
3. Abandonment of Title (either M.G.L. Chapter 82, Section 21 or M.G.L. Chapter 40, Section 15)

As you well know, Franklin's form of government has changed since 1808 when Town Meeting voted to accept Spring Street. The current form of government is a city council, although Franklin opted to retain the "Town" name, so the Town Council is now the authority to vote to discontinue a town road under M.G.L. Chapter 82, Section 21. Under the process for abandonment of the obligation to maintain per M.G.L. Chapter 82, Section 32A, the board or officers of a city or town having charge of a public way are authorized to vote to abandon the way. Thus, the Town Council can also vote to abandon the maintenance of the way in accordance with the provisions of the statute.

1. Abandonment of Maintenance

"Abandonment", under M.G.L. Chapter 82, Section 32A, is the deliberate cessation of public maintenance of a town way by the board or officer in charge of the roads and after a public

process to find that the way "has become abandoned and unused for ordinary travel". Upon abandonment of maintenance, the public and abutters have a right to travel on the way.

The process for Franklin to abandon maintenance of a public way per M.G.L. Chapter 82, Section 32A is as follows:

1. The Town Council provides notice of the public hearing by registered mail, return receipt requested, to all property owners abutting the affected road.
2. Notice of the public hearing shall be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing.
3. Notice of the public hearing shall be posted in a conspicuous place in the office of the Town Clerk for a period of not less than fourteen (14) days before the day of the hearing.
4. Conduct the public hearing. If a finding is made that the public way has become abandoned and unused for ordinary travel and that the common convenience and necessity no longer requires the public way to be maintained in a condition reasonably safe and convenient for travel, the Town Council shall vote to declare that the Town shall no longer be bound to keep such public way in repair.
5. Upon filing of such declaration with the Town Clerk, such declaration shall take effect, provided that sufficient notice to warn the public that the way is no longer maintained is posted at both ends of the public way, or portions thereof.

2. Discontinuance

Under M.G.L. Chapter 82, Section 21, discontinuance can only be done by town meeting or the city council. Thus, in Franklin, the Town Council would vote to discontinue the public way.

A public way, once duly laid-out by a town, continues to be such until legally discontinued.

The process for discontinuing a public way is very simple. The Town Council would place the item on an agenda and vote to discontinue the way. There is no statutory requirement to notify abutters or hold a public hearing (with specific posting requirements) on the discontinuance action. However, it is strongly recommended to both notify abutters and hold a public hearing with general statutory notifications or, better, following the notification procedure under Chapter 82, Section 32A to ensure ample opportunity for abutters and the public to be notified.

Damages under M.G.L. Chapter 82, Section 24 are clarified under *Nylander v. Potter*, 423 Mass. 158 (1996):

Upon abandonment of maintenance (M.G.L. Chapter 82, Section 32A), the public and abutters have a right to travel on the way.

When a road is discontinued (M.G.L. Chapter 82, Section 21), the ground on which it lays reverts to its status prior to the creation of the public way. Upon discontinuance, no private abutter's easement will be inferred by the Court.

If a town has adopted an Official Map pursuant to M.G.L. Chapter 41, Section 81E-I, then a planning board review of the proposed discontinuance is not required. Any discontinuance must be reflected on the official map. (M.G.L. Chapter 41, Section 81h). If the town does not have an Official Town Map, then the Planning Board must be allowed 45 days before the vote in which to comment and report on the advisability of discontinuing the road in question (M.G.L. Chapter 41, Sections 81-G, I).

3. Abandonment of Title

If the interest in the land acquired by the public at the time of the creation of the way as a public way was an easement, then upon discontinuance under M.G.L. Chapter 82, Section 21, the title automatically reverts to the holders of the underlying fee. No further action is needed. If a fee was acquired (as opposed to an easement), then the land should be abandoned under M.G.L. Chapter 40, Section 15.

Spring Street, Franklin

The second part of this report pertains specifically to Spring Street and the process for abandonment of maintenance, discontinuance or abandonment of title on all or a portion of Spring Street. Given that the process for either of those options differs based upon the process by which the Town acquired the public way, it is critical to be able to define how the Town acquired Spring Street.

It appears from records maintained by the Town Clerk that Spring Street was laid out and presumably accepted by vote of Town Meeting on March 18, 1808. Documentation to this effect is in Street Acceptance Book 7 in the Town Clerk's office as well as the record of the March 18, 1808 Town Meeting. Street Acceptance Book 7 lists Spring Street as being accepted as public way on March 18, 1808. Minutes (or records) of the March 18, 1808 Town Meeting indicate that Spring Street was "laid out" with specific boundaries and markers, which included stone walls, a gray oak tree, and a stake and what appears to read "stones". Given the language of the 1808 item, it is unclear exactly where Spring Street was originally laid out and whether today's Spring Street is similar or markedly different. Legal layouts of roads in 1808 identified boundaries and

markers that no longer exist, such as stone walls, trees, stakes, stones, meadow fields, mowing fields, fences, orchards and properties identified only by owner names.

Years later, under Article 18 of the March 7, 1870 Town Meeting, adjourned to April 4, 1870, Town Meeting voted to adopt the report on the naming of streets in Town as recommended by the Committee on Streets which included naming "Spring Street" from Washington Street to Central Street past Wadsworth Railroad Station.

The records do not indicate whether the Town acquired Spring Street in fee or by easement.

On September 7, 2000 then Town Clerk Deborah Pellegri signed a statement that certified that Spring Street, from Washington Street to Central Street, past Wadsworth's Railroad Station, was accepted by the town prior to 1870 and named by the Town at the Annual March Meeting adjourned to April 4, 1870.

Town Counsel Mark Cerel has reviewed these documents and states that the legal process indicated in the 1808 Town Meeting vote is not clear. He suggested that additional research, perhaps by a certified engineer, would be advisable if you wish to pursue a partial or complete discontinuance or abandonment of maintenance of Spring Street.

In 1994, the Town considered the "possible closing of Spring Street". Attached are the documents related to that initiative. The Principal Planner for the Regional Planning Services Office, E. Winn Davis, appears to have been charged with leading the analysis, including coordinating meetings with various department heads (Town Clerk, Assessors, DPW, Fire Chief), at least one member of the Planning Board, and Town Counsel (Attorney Mark Lanza). Mr. Davis' final report to then Town Administrator Wolfgang Bauer dated December 28, 1994 is attached herein. Based on his analysis, Mr. Davis recommended that Spring Street not be abandoned. His decision was primarily based on future traffic needs of the town and public safety issues although he did point out the potential legal liability and cost to the Town if several lots on Spring Street lost their frontage on a public way. Mr. Davis did, however, recommend that Spring Street be maintained as a public way from Washington Street up to the point where the railroad right of way exists(ed). He also recommended that the road be posted/discontinued from that point northerly to Route 140. Mr. Davis concluded that he believes his report reflects the views of the DPW, Fire Department and Town Attorney.

The 1994 reports suggest that the Town Administrator was going to present the findings of the analysis to the Town Council on December 28, 1994. Meeting minutes from that meeting do not include any discussion of Spring Street. Town Clerk Nancy Danello also searched all Town Council minutes from 1995 and there was no discussion in the minutes of any meeting in 1995 related to Spring Street.

Other action taken on Spring Street by the Town Council includes a vote on its Scenic Road designation. The Streetscape Design Committee submitted an Application for Scenic Road Designation for Spring Street in July 1999. On September 27, 1999, the Planning Board voted to recommend approval to the Town Council. Spring Street received designation as a Scenic Road by vote of the Town Council on October 27, 1999 (99-422).

I have attached GIS maps of Spring Street and an abutters list. I have also provided a GIS map that shows the category of ownership of those parcels with frontage on Spring Street classified as State-owned (green dot), Town-owned (blue dot) or various private owners (red dot). Thus, any road discontinuance or abandonment of maintenance that includes the roadway in front of these parcels will carry with it the potential liability of the abutters.

Based on the information we currently have on Spring Street, and since the determination of its acquisition and legal boundaries is not clear in the 1808 vote, I recommend the following:

1. Conduct additional research by a civil engineer on the original acceptance of Spring Street and its legal boundaries. Until that is determined, it will be difficult for the Town to determine the implications of either abandoning maintenance or discontinuing a portion of Spring Street.
2. Since the Town does not currently maintain the entire length of Spring Street, it seems logical to consider a discontinuation of a portion of the street as opposed to abandonment of maintenance which technically has been abandoned already on a specific portion of the road.
3. Conduct an analysis of the benefits and disadvantages of discontinuing a portion of Spring Street. Such analysis to include determining the economic, financial and operational advantages to discontinuing a portion of Spring Street as well as the disadvantages of such action (reduction in Chapter 90 funding, liability, economic development barriers, etc.)
4. If the original acquisition can be clarified, and if there are compelling reasons that support a partial discontinuance, I would recommend that the Town only consider discontinuing that portion of Spring Street that abuts State-owned or Town-owned parcels. This area is basically the portion of the street from Parcel #308-024-000-000, which is owned by the Town and listed as being located on Oxford Drive, north to Route 140. This section does not have any abutting parcels that are privately owned but does have several that are State-owned. See the map in Attachment XII.
5. If Town administration wishes to pursue a partial road discontinuance of this section Of Spring Street, I recommend setting up a meeting with the Massachusetts Department of Conservation and Recreation (DCR) as the State is an abutter on a large portion of Spring Street. As such, the State does have abutter rights according to Attorney Mark Cerel. It is also recommended to include Franklin's state legislative delegation, the Senator and Representative, in these discussions.

6. If the State and the Town concur that it is in the best interest of the Town and the State Forest to discontinue a portion of Spring Street, then additional meetings should be held with Town Counsel, DPW, Fire, Police and the Department of Planning and Community Development to further analyze impacts to public safety and economic development efforts, financial impacts, and any legal implications and potential liability with respect to those nearby property owners who may be impacted by the discontinuance in some manner.
7. As discussed in the first section of this report above regarding procedure, while there is no statutory requirement to notify abutters or hold a public hearing (with specific posting requirements) on the discontinuance action under M.G.L. Chapter 82, Section 21, it is strongly recommended to notify abutters and hold a public hearing with general statutory notifications or, better, following the notification procedure under Chapter 82, Section 32A to ensure ample opportunity for abutters and the public to be notified.

The following attachments are included in this report:

- I. M.G.L. Chapter 82, Section 21
- II. M.G.L. Chapter 82, Section 32A
- III. M.G.L. Chapter 40, Section 15
- IV. Document from Robert D. Smith, Barnstable Town Attorney
- V. Copy of Minutes from March 18, 1808 Town Meeting
- VI. Copy of minutes from April 4, 1870 Town Meeting
- VII. Copy of documentation from Street Acceptance Book 7
- VIII. Signed statement from former Town Clerk Deborah Pellegrini September 7, 2000
- IX. Copy of package from 1994 related to consideration for abandonment of Spring Street
- X. Spring Street direct Abutters Map
- XI. Spring Street Abutters Report
- XII. Spring Street Property Owners by Category (State, Town, Private)

Please let me know if you need any further information. Thank you.

ATTACHMENT I
M.G.L. Chapter 82, Section 21

Part I	ADMINISTRATION OF THE GOVERNMENT
Title XIV	PUBLIC WAYS AND WORKS
Chapter 82	THE LAYING OUT, ALTERATION, RELOCATION AND DISCONTINUANCE OF PUBLIC WAYS, AND SPECIFIC REPAIRS THEREON
Section 21	AUTHORITY TO LAY OUT WAYS

Section 21. The selectmen or road commissioners of a town or city council of a city may lay out, relocate or alter town ways, for the use of the town or city, and private ways for the use of one or more of the inhabitants thereof; or they may order specific repairs to be made upon such ways; and a town, at a meeting, or the city council of a city, may discontinue a town way or a private way.

ATTACHMENT II

M.G.L. Chapter 82, Section 32A

Part I

ADMINISTRATION OF THE GOVERNMENT

Title XIV

PUBLIC WAYS AND WORKS

Chapter 82THE LAYING OUT, ALTERATION, RELOCATION AND
DISCONTINUANCE OF PUBLIC WAYS, AND SPECIFIC REPAIRS
THEREON**Section 32A**

ABANDONMENT OF MUNICIPAL WAYS

Section 32A. The board or officers of a city or town having charge of a public way may, after holding a public hearing, notice of which shall be sent by registered mail, return receipt requested, to all property owners abutting an affected road and notice of which shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting in a conspicuous place in the office of the city or town clerk for a period of not less than fourteen days before the day of the hearing, upon finding that a city or town way or public way has become abandoned and unused for ordinary travel and that the common convenience and necessity no longer requires said town way or public way to be maintained in a condition reasonably safe and convenient for travel, shall declare that the city or town shall no longer be bound to keep such way or public way in repair and upon filing of such declaration with the city or town clerk such declaration shall take effect, provided that sufficient notice to warn the public that the way is no

ATTACHMENT III

M.G.L. Chapter 40, Section 15

Part I ADMINISTRATION OF THE GOVERNMENT

Title VII CITIES, TOWNS AND DISTRICTS

Chapter 40 POWERS AND DUTIES OF CITIES AND TOWNS

Section 15 ABANDONMENT OF RIGHTS IN REALTY; CONDITIONS

Section 15. If any officer of a city or town having charge of any land, easement or right taken for such city or town, otherwise than by purchase, notifies the city council or the selectmen that, in his opinion, such land, easement or right, or part thereof, is no longer required for public purposes, and if thereafter the city council or the inhabitants of the town by a two thirds vote authorize the conveyance of such land, or of part thereof, or the abandonment of such easement or right, or part thereof, and specify the minimum amount to be paid for such conveyance or abandonment, the mayor or the selectmen may, for such amount or a larger amount, and upon such other terms as the mayor or selectmen shall consider proper, convey said land, or part thereof, by deed, or declare said easement or right, or part thereof, to be abandoned. Such declaration, being recorded in the registry of deeds for the district where the land is situated, shall extinguish the easement or right, or part thereof.

No land heretofore or hereafter acquired by eminent domain by one city or town within the limits of another city or town shall be conveyed under this section unless the mayor or selectmen authorized to convey such land

ATTACHMENT IV

Document from Robert D. Smith, Barnstable Town Attorney

See also: Atty J. Gove analysis
from Aug 2014 half-day

THE END STAGE: ABANDONMENT OF MAINTENANCE, DISCONTINUANCE AND ABANDONMENT OF TITLE

Robert D. Smith, Town Attorney, Barnstable

Nylander v. Potter, 423 Mass. 158 (1996)

A. Abandonment of Maintenance

As made vivid in *Nylander*, abandonment, as used in M.G.L. c. 82 §32A, means deliberate cessation of public maintenance of a town way by the board or officer in charge of roads, after publication and mailing of notice, hearing and a finding that the way "has become abandoned and unused for ordinary travel."

B. Discontinuance

Can only be done by town meeting or the city council, under M.G.L. c. 82 §21. Damages attach under c. 82 §24. *Nylander* makes the difference between the two quite clear. Upon abandonment of maintenance, there is still a right to travel on the way, by (explicitly, although dictum, in *Nylander*) the abutters and (implicitly in *Nylander*) the public. When a road is discontinued, the ground on which it has lain reverts to its status prior to the creation of the public way. No private "abutters" easement will be inferred by the Court upon discontinuance of a public way.

C. Abandonment of Title

If the interest in the land acquired by the public at the time of the creation of the way as a public way was an easement, then upon the discontinuance of the way, the title automatically reverts to the holders of the underlying fee, and there is nothing further to be done. If, however, the fee was acquired, which is not the presumed case (See *Opinion of the Justices*, 208 Mass. 603 (1911)), then the affirmative step of "abandoning" the land remains to be done, presumably under M.G.L. c. 40 §15.

A RELATED TOPIC: ADVERSE POSSESSION BY AND AGAINST MUNICIPALITIES, WITH EMPHASIS ON ROADS; SOME SELECTED STATUTES

CHAPTER 86. BOUNDARIES OF HIGHWAYS AND OTHER PUBLIC PLACES, AND ENCROACHMENTS THEREON

Sec. 3. Encroachment on public ways

If the boundaries of a public way are known or can be made certain by records or monuments, no length of possession, or occupancy of land within the limits thereof, by the owner or occupant of adjoining land shall give him any title thereto, unless it has

Research References

Treatises and Practice Aids

18A Mass. Prac. Series § 955, Public and Private Ways-Generally.

18A Mass. Prac. Series § 969, Ways for Which a City or Town is Chargeable.

Notes of Decisions

In general 1
Certiorari 2

1. In general

In the case of *Inhabitants of Brookline v. County Commissioners of Norfolk* (1874) 114 Mass. 548, the court said: "The object of this section is to make the laying out a matter of which any person in the town may have sufficient notice by its appearance upon the public records, and the language of the statute contemplates that this shall be done contemporaneously with the laying out. * * * The 74th section was intended to give public notice of the act of

the selectmen; all that they have to do is then completed, the intention to appropriate private property to public use as a way is clearly expressed, the location bounds are distinctly stated, and parties interested are in a situation where they can decide whether to remain contented with this determination, or to seek some other remedy."

2. Certiorari

Certiorari will not lie to remove the record of the proceedings of a town in the location and establishment of a townway. *Robbins v. Inhabitants of Lexington* (1851) 62 Mass. 292, 8 Cush. 292.

§ 32A. Abandonment of municipal ways

The board or officers of a city or town having charge of a public way may, after holding a public hearing, notice of which shall be sent by registered mail, return receipt requested, to all property owners abutting an affected road and notice of which shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting in a conspicuous place in the office of the city or town clerk for a period of not less than fourteen days before the day of the hearing, upon finding that a city or town way or public way has become abandoned and unused for ordinary travel and that the common convenience and necessity no longer requires said town way or public way to be maintained in a condition reasonably safe and convenient for travel, shall declare that the city or town shall no longer be bound to keep such way or public way in repair and upon filing of such declaration with the city or town clerk such declaration shall take effect, provided that sufficient notice to warn the public against entering thereon is posted at both ends of such way or public way, or portions thereof.

Amended by St. 1983, c. 136.

Historical and Statutory Notes

St. 1924, c. 289.

St. 1983, c. 136, approved May 27, 1983, rewrote the section, which prior thereto read:

"Upon petition in writing of the board or officers of a town having charge of a public way, the county commissioners may, whenever common convenience and necessity no longer require such way to be maintained in a condi-

tion reasonably safe and convenient for travel, adjudicate that said way shall thereafter be a private way and that the town shall no longer be bound to keep the same in repair, and thereupon such adjudication shall take effect; provided, that sufficient notice to warn the public against entering thereon is posted where such way enters upon or unites with an existing

*abandonment of
obligation to
maintain*

WAYS

PUBLIC WAYS

public way. This section shall not apply to ways in cities."

Library References

Highways 79.1 to 79.7.
Westlaw Topic No. 200.
C.J.S. Highways §§ 128 to 134.

Research References

Treatises and Practice Aids

17A Mass. Prac. Series § 50.7, Attacking Validity of Taking.

18A Mass. Prac. Series § 961, Discontinuance of Public Ways.

Notes of Decisions

In general 1

Alteration of location 2

County ways 5

Discontinuance of maintenance 6

Relocation by county 3

Venerable roadways 4

1. In general

Public way, once duly laid out by town, continues to be such until legally discontinued. *Mahan v. Town of Rockport* (1934) 190 N.E. 810, 287 Mass. 34. Highways 66

2. Alteration of location

When municipality or other body having authority, by a laying out alters location of a way, so much of the path of the old road as is not included in new location is discontinued without any words of discontinuance. *Carmel v. Baillargeon* (1986) 487 N.E.2d 867, 21 Mass. App. Ct. 426. Highways 73

3. Relocation by county

The only public action, namely, relocation of road intersecting public way, was taken by county, not town, and therefore, finding that public way, which had been opened by town, had been discontinued was error. *Carmel v. Baillargeon* (1986) 487 N.E.2d 867, 21 Mass. App. Ct. 426. Highways 68

4. Venerable roadways

Any status venerable roadway had as public way was ended by votes of town meetings to discontinue. *Schuffels v. Bell* (1985) 484 N.E.2d 1343, 21 Mass. App. Ct. 76. Highways 75.3

5. County ways

Authority given to board of officers of city or town to discontinue maintenance of city or town way or public way extended only to city or town ways, not to county ways, and thus, town board of selectmen lacked authority to discontinue maintenance of part of county highway. *Coombs v. Board of Selectmen of Deerfield* (1988) 528 N.E.2d 136, 26 Mass. App. Ct. 379, review denied 530 N.E.2d 797, 403 Mass. 1104. Highways 75.1

6. Discontinuance of maintenance

Legal discontinuance, by town vote, of road as public way is to be distinguished from discontinuance of maintenance, in that discontinuance of maintenance merely relieves municipality of liability for care and maintenance of road and, unlike formal discontinuance by town vote, does not extinguish right of public and abutting landowners to travel over that road; discontinuance of maintenance creates "public access" private way. *Nylander v. Potter* (1996) 667 N.E.2d 244, 423 Mass. 158. Highways 75.3; Highways 78; Highways 86

§ 32B. Taking slope easement to protect ways

Wherever in this chapter or in any city charter a board of officers is authorized to take land by eminent domain under chapter seventy-nine, in connection with the laying out, widening, altering or relocating of a public way, such board of officers shall be authorized to take an easement in land adjoining the location of the public way consisting of a right to have the land of the location protected by having the surface of such adjoining land slope from the boundary of the location.

Added by St.1933, c. 283, § 3.

out of highways or town ways and also by publishing in a newspaper a copy of the notice not less than seven days before the hearing. At such hearing the county commissioners may finally decide such appeal.

Historical and Statutory Notes

St.1891, c.170, § 4. St.1913, c. 546, § 3.
R.L.1902, c.48, § 60. St.1917, c. 344, pt. 2, § 37,
pt. 8, § 1.

Library References

Highways 57.
Westlaw Topic No. 200.
C.J.S. Highways §§ 83 to 91.

Research References

Treatises and Practice Aids
18A Mass. Prac. Series § 954, Highways-Cities and Towns.

§ 20. Applicability to railroad crossings

The three preceding sections shall not affect sections fifty-nine to eighty-two, inclusive, of chapter one hundred and fifty-nine, and sections ninety-five to one hundred and fourteen, inclusive, and section two hundred and fifty-two of chapter one hundred and sixty, relative to railroad corporations and street railway companies.

Historical and Statutory Notes

St.1891, c. 170, § 5. St.1913, c. 546, § 5.
R.L.1902, c. 48, § 64. St.1917, c. 344, pt. 2, § 38,
pt. 8, § 1.

Research References

Treatises and Practice Aids
18A Mass. Prac. Series § 954, Highways-Cities and Towns.

PROCEDURE OF CITY AND TOWN OFFICERS IN RESPECT TO TOWN WAYS AND PRIVATE WAYS

§ 21. Authority to lay out ways

The selectmen or road commissioners of a town or city council of a city may lay out, relocate or alter town ways, for the use of the town or city, and private ways for the use of one or more of the inhabitants thereof; or they may order specific repairs to be made upon such ways; and a town, at a meeting, or the city council of a city, may discontinue a town way or a private way.

*Discontinuance
as public way*

82 § 21

Note 29

29. Orders

Applicable regulations would not be interpreted as requiring that city or redevelopment authority again consult with Advisory Council on Historic Preservation in absence of any allegation of significant change of circumstances since Secretary of Department of Housing and Urban Development had first consulted with Advisory Council, and thus fact that city failed to notify and consult with Advisory Council before adopting order, which discontinued all public rights in all ways lying within certain land next to river, concerning which redevelopment authority sought confirmation of its title and determination of extent of then existing private rights in alleged ways to waterfront, did not mean that such order was invalid. *Newburyport Redevelopment Authority v. Com.* (1980) 401, N.E.2d 118, 9 Mass.App.Ct. 206; *Environmental Law* 88.

Under St.1892, p. 467, c. 418, § 5, providing that whenever the Boston board of street commissioners shall be of the opinion that any land should be laid out as a highway, or that any highway should be widened or altered, etc., the board shall pass an order providing for the carrying out of any one or more of such actions necessary for securing such improvement, and the board, if it orders the construction of a highway, shall prescribe in the order the kind of surface or pavement therefor, and the materials, etc., the board, in providing for the widening of a street, is not required to include an order for

§ 22. Notice of intention

Seven days at least prior to the laying out, relocation or alteration of a town way or private way a written notice of the intention of the selectmen or road commissioners of the town to lay out, relocate or alter the same shall be left by them, at the usual place of abode of the owners of the land which will be taken for such purpose, or delivered to such owner in person or to his tenant or authorized agent. If the owner has no such place of abode in the town and no tenant or authorized agent therein known to the selectmen or if, being a resident in the town, he is not known as such to the selectmen or road commissioners, such notice shall be posted in a public place in the town seven days at least before the laying out, relocation or alteration of such way. This section shall not apply to cities.

Historical and Statutory Notes

St.1835, c. 122.

R.S.1836, c. 24, § 67.

G.S.1860, c. 43, § 61.

St.1871, c. 158.

St.1873, c. 51.

P.S.1882, c. 49, § 67.

R.L.1902, c. 48, § 67.

St.1917, c. 344, pt. 2, § 41.

pt. 8, § 1.

Law Review and Journal Commentaries

Municipal powers and functions. Richard G. Huber, 9 Ann.Surv.Mass.L. 227 (1962).

PUBLIC WAYS

construction in the order determining that the public improvement shall be made, but may make a separate order for construction. *New England Hospital for Women & Children v. Street Com'rs of Boston* (1905) 74 N.E. 294, 188 Mass. 88. *Municipal Corporations* 293(3).

30. Proceedings

The fact that one of the selectmen who signed the report did not actually participate in laying out the road did not invalidate the proceeding, since the majority had authority to act. *Inhabitants of Dartmouth v. County Com'rs* (1891) 26 N.E. 425, 153 Mass. 12. *Highways* 39.

The fact that a petition to the selectmen of a town to lay out a way speaks of it as a "highway" does not avoid the proceedings when the selectmen actually lay out a town way. *Inhabitants of Dartmouth v. County Com'rs* (1891) 26 N.E. 425, 153 Mass. 12. *Highways* 29(5).

Under St.1861, c. 107, providing that streets may be laid out by the mayor and aldermen with the concurrent vote of the common council, if the concurrence of the common council be accompanied with proposed modifications, not of the location, but in matters incidental to it, and such modifications be agreed to by the mayor and aldermen, such action will not invalidate the proceedings. *Pickford v. City of Lynn* (1868) 98 Mass. 491.

ATTACHMENT V

Copy of Minutes from March 18, 1808 Town Meeting

laying out - thence North $37\frac{1}{2}^{\circ}$ East - 70 rods to a stake
at the County road near the town pond, thence
beginning the opposite side of the road at the corner
of Abijah Thurston's Cow yard, thence across a corner
of said Thurston's land to a stake on the ridge
hill on the Meeting-house road said road to be
8 rods wide at each entry gradually decreasing
for the space of six rods till it comes to 2 rods
wide the remainder part of said road to be 2
rods wide and the aforesaid bounds to be on the
westerly side of said road said road & land on
the northerly side of the County road to be free
from any expense to the Town.

The above laying out voted by the Town &
the former laying out and old road discontin-
ued agreeable to said article & to be done
without any expense to the Town.

March 18, 1808

*
bring
tree

Then assembled the subscribers Selectmen of
Franklin and laid out a road as follows,
Beginning at the end of the Town road on
Whortlebury hill [so called] at the North end
of the stone wall on the land of Samuel
Darling -- running a South West course
about 27 rods to a grey oak tree, thence south-
erly on the land of Pilariah and Seth Whiting
a straight line about 20 rods to another
stone wall, thence upon said wall about 42
rods, thence a straight line about 35 rods
to a stake and stones, all the before men-
tioned bounds on the easterly side of said road

* Said road to be 2 poles wide
The above laying out confirmed by a
vote of the town.

May 11. 1840

oln Then assembled. Phineas Ware Lewis Fisher
n and William Makepeace Selectmen of
Franklin and laid out a road for the
use of said Town as follows, viz:
Beginning at a black oak tree at the
corner of Leabel Fisher's wood lot and Elisha
Richardson's meadow field on the West side
of the road leading from the aforesaid
Leabel Fisher to the Bent bridge (so called)
thence running Northerly partly on land
of the aforesaid Richardson and partly on
the old road to the head of the lane lead-
ing from the old road to the said Richardson
house thence across said lane the same course
through the mowing field of the said
Richardson's 50 rods to a stake & stones, thence
turning a little more North through the said
Richardson's land 40 rods to a post in the
fence on the line between the said Rich-
ardson's land & Phil's Sandford's orchard
thence running the same course through
the said Sandford's orchard 52 rods to a
stake & stones at the brow of the hill
South of Medway Factory; thence turning
Northwesterly through the said Sandford's
and a corner of Abner Luther Moberg's land

ATTACHMENT VI

Copy of minutes from April 4, 1870 Town Meeting

Proceedings of annual March meeting March 7 & April 4 1870

Article 17 the Committee appointed to take into consideration the Subject matter of this article made a Verbal report in favor of building a new barn and repair the outbuildings on this farm, which report was accepted

Voted that a barn of suitable size be built on the town farm and to repair the outbuildings thereon, and for that purpose the select men are hereby appointed a building Committee, and the sum of fourteen hundred dollars is hereby granted, the same to be expended under their direction

Voted that the several sums ^{of money} granted be assessed collected and paid into the Treasury under the same rules and regulations as last year.

Article 16 Voted that the Subject of this article be deferred until next year

On motion of William Rockwood Esq.

Voted to take up the fifth article

Article 5 Voted to choose three in stead of two Constables, and

Made choice of Lewis R. Whitaker Constable, sworn by the clerk

Voted to choose another Constable and

made choice of Lewis S. Fisher.

Voted to choose another Constable, and on balloting no choice was made

The Committee on Streets made a Written report, which is as follows

The Committee to whom was committed the naming of Streets in town respectfully submit the following report, and in presenting the list of names they felt it to be of much importance to define the location clearly but briefly. names of Streets as follows

Central Street from Northam line (near the Eagle factory) to Bellingham line, formerly known as Taunton & Worcester road

Main Street from Rail Road Bridge on Central street to Brick School house no 1

Union Street from W. S. Mosser Straw Shop crossing Rail Road at Nasons and leading over the Mount to Wrentham line. High Street, from Main to Union, crossing at the head of the Common.

School Street

From Main to Union St. passing high school house

Emmons St.

From Main to Central St. past the Engine house

Streets

287
to April 4 1870

- Proceedings of annual March Meeting March 7th and adj^d to April 4th 1870
- South Street
From Washington Street past Nathl Wams to Wrentham line
- Greene Street
From Pleasant Street past cemetery to Norfolk line
- Daniel Street
From Lincoln Street near S.W. Richards to Greene Street
- Miller Street
From Pleasant Street near the Moore place to Greene Street
- Brook Street
From Lincoln Street near J.A. Murphys to Miller Street
- Short St Street
From Daniel Street near the residence of James Fisher crossing Brook St to Miller St.
- Bent Street
From Lincoln Street near S. Putnam to Medway line
- Mechanic Place
Leading out of Bent Street
- Fuller Place
Fuller Place
- Jordan Street
Leading out of Bent Street
- Mill Street
From Chestnut Street to Central Street
- Acorn Place
From Chestnut Street near Frederick Fisher to Norfolk line
- Hill Side Place
Leading out of Chestnut Street the residence of W.H. King
- Vine Street
Leading out of Grove St to the residence of E.S. Morse
- Mount Street
From Forest Street to Wrentham Line near O.G. Cheevers
- Birch Street
From Union St at school house no 10 to Summer Street
- Day place Street
From Summer Street near Lewis Mills to Wrentham line
- Elm Street
From Summer Street near Lewis Mills to Wrentham line
- Partridge Street
From Union St at school house no 10 to Summer Street
- Bridge Street
From Pond Street near the residence of Morace Bishop to Elm St
- Beach Street
From Pond Street crossing Pine Street to Bellingham line

ATTACHMENT VII

Copy of documentation from Street Acceptance Book 7

STREET ACCEPTANCE BOOK 7, 1785-1921				
Street Name	Page	Date	Article	Notes
Acorn Place	25	08/23/1819		
Acorn Place	28	04/00/1834		
Acorn Place	38	04/23/1855		
Acorn Place	66	04/18/1868		
Alpine Ext. & Dean Street	115	06/28/1879		
Alpine Place	38	04/07/1855		
Alpine Street	66	06/08/1867		
Alpine Street	97	09/13/1873		
Alpine Street	99	08/31/1875		
Alpine Street	99	09/15/1875		
Arlington Street	120	03/07/1881		
Beaver Pond Road	15	05/08/1806		
Beaver Pond Road	17	05/04/1807		
Beaver Street	1	02/07/1788	Article 5	
Beaver Street	2	09/26/1788		
Beaver Street	2	10/12/1789		
Beaver Street	3	09/23/1789		
Beaver Street	20	05/04/1807		
Beech & Pine Street	6	10/28/1793		
Beech Street	6	10/23/1793		
Beech Street	7	05/05/1794		
Beech Street	19	04/06/1812		
Bent Street	29	03/04/1839		
Bent Street	64	03/04/1867		
Bent Street	98	03/04/1867		
Bent Street	137	03/01/1886		
Birch & Summer Street	48	04/02/1860		
Bucklins Norfolk	31	04/03/1843		
Bullock Place	136	03/02/1885		
Bullock Place	137	03/01/1886		
Bullock Street	139	05/17/1886		
Catholic Church	30	08/05/1840		
Central /Summer/Beaver St.	241	7/19/1915		Relocation
Central Street	11	01/17/1799		
Central Street	12	03/31/1803		
Central Street	40	10/27/1856		
Central Street	41	03/00/1860		
Central Street	60	07/29/1864		
Central Street	64	08/28/1865		
Central Street	134	07/14/1883		
Central Street	186	09/14/1895		
Central Street	207	11/5/1913		Relocation
Central Street	232	2/13/1915		Relocation

				Relocation of Tracks
Central Street	250	1/16/1917		
Chestnut Street	25	08/09/1819		
Church Street	34	04/07/1845		
Church Street	59	11/05/1861		
Church Street	122	03/07/1881		
Church Street Relocation	132	05/24/1883		
City Mills	5	04/01/1793		
Cleveland	193	6/11/1909		
Corbin Street	257	1/25/1916		
Cottage Street	58	11/06/1860		
Cottage Street	117	03/01/1880		
Cottage Street Extension	169	02/20/1891		
Crescent Street	112	03/04/1878		
Crocker Ave.	254	1/25/1916		
Cross Street	35	09/27/1845		
Cross Street	160	12/13/1889		
Dale Street	113	08/11/1877		
Daniels Street	31	04/03/1843		
Daniels Street	33	12/17/1842		
Dean Street Extension	167	02/14/1891		
Depot Street	63	03/06/1866		
Depot Street	130	02/19/1883		
Depot Street -Widening	173	03/14/1891		
Earl Street	56	10/31/1860		
Elm Street	26	03/07/1831		
Elm Street	31	04/03/1843		
Elm Street	138	01/13/1886		
Emmons Street	36	04/05/1852		
Emmons Street	36	02/21/1852		
Emmons Street	98	02/07/1874		
Fales Street	188	2/23/1911		
Fisher Street	133	05/24/1883		
Forge Hill Road	35	11/08/1847		
Forge Hill Road	35	04/03/1848		
Fuller Street	142	03/01/1886		
Garfield Street	118	03/07/1881		
Grove & Central Street	7	05/06/1795		
Grove Street	29	08/25/1834		
Haywood Street	194	6/23/1909		
High Street	175	03/16/1833		
Hillside Place	30	06/01/1840		
Hillside Place	86	06/15/1871		
Howard Street	171	02/20/1891		
Hutchinson Street	170	02/20/1891		
Joy Street	190	2/24/1911		
King Street	4	04/02/1792		
King Street	22	03/03/1817		

King Street	23	04/23/1817		
King Street	37	09/03/1853		
King Street	201	9/6/1911		Relocation
Landry Street	192	2/25/1910		
Lewis Ave	224	6/3/1912		
Lewis St.	263	1/13/1917		
Linclon North End	18	05/11/1810		
Lincoln Street	21	04/03/1815		
Lincoln Street	32	08/29/1843		
Lincoln Street	278	7/19/1921		Sanford St.(Medway)
Main & Lincoln Street	87	12/17/1872		
Maple Street	77	11/03/1868		
Martin Ave.	187	2/23/1911		
Marvin Ave.	225	5/5/1913		
McCarthy Street	143	02/11/1888		
Mill Street	27	04/00/1833		
Mill Street	100	12/13/1874		
Miller Street	8	10/13/1797		
Miller Street	9	03/05/1798		
Miller Street	10	03/05/1798		
Miller Street	13	03/31/1803		
Miller Street	19	08/15/1812		
Miller Street	31	04/03/1843		
Miller Street	32	12/17/1842		
Nason Street	117	03/01/1880		
Nason Street	166	02/14/1891		
Norfolk Road	24	04/12/1819		
Norfolk Road	66	05/18/1868		
Norfolk Road	76	04/14/1869		
North Main Street	5	04/01/1793		
North Park Street	121	03/07/1881		
Oak & Church Streets	22	05/13/1816		
Oak Street	123	07/19/1881		
Park St.	216	5/5/1913		
Partridge & Pond Street	86	05/02/1871		
Partridge Street	26	05/05/1830	Article 5	
Partridge Street	28	11/11/1833		
Partridge Street	30	04/03/1843		
Partridge Street	33	03/06/1843		
Partridge Street	35	09/27/1845		
Peck Street	110	11/25/1876		
Peck to Wachusett	273	2/5/1917		
Plane Street	21	05/23/1815		
Pleasant Street	117	03/01/1880		
Pleasant Street	150	12/13/1889		
Pleasant Street	260	5/16/1916		
Pond Street	4	01/31/1791		

Pond Street	15	05/14/1805		
Pond Street	39	11/07/1855		
Pond Street	39	11/06/1855		
Pond Street	41	04/00/1852		
Private Way	16	04/02/1806		
Private Way	24	04/17/1819		
Prospect Street	11	03/05/1798		
Prospect Street	11	05/08/1819		
Queen Street	117	03/01/1880		
Queen Street	141	01/29/1887		
Rail Rd.Crossing	176	06/22/1882		Beaver/Union/Grove/Central
Rail Road Bridge	195	5/2/1911		Rebuilding Medway Bridge
Ruggles Street	185	03/15/1890		
Ruggles Street Ext.	269	1/18/1917		
Saxon Street	190	2/16/1911		
School St. Ext. to Beaver	220	5/5/1913		
School Street	37	11/13/1854		
School Street	38	03/08/1855		
School Street	108	08/14/1875		
School Street	109	08/31/1875		
School Street Extention	110	11/25/1876		
School Street Extention	135	02/19/1884		
* Spring Street	17	03/18/1808		
Summer Street	5	04/13/1793		
Summer Street	14	03/05/1804		
Summer Street	67	06/08/1868		
Union Street	2	12/21/1789		
Union Street	3	12/21/1789		
Union Street	4	04/05/1790		
Union Street	14	05/02/1803		
Union Street	28	04/07/1834		
Union Street	35	08/25/1845		
Union Street	98	03/04/1867		
Union Street	144	12/00/1888		
Union Street	236	6/26/1915		Relocation
Wachusett Street	119	03/07/1881		
Washington Street	39	08/02/1856		
Washington Street	41	11/04/1856		
West Street	63	03/03/1862		
Winter Street	131	02/17/1883		
Worsted Street	172	03/14/1891		

ATTACHMENT VIII

Signed statement from former Town Clerk Deborah Pellegrini

September 7, 2000

Town of Franklin

Office of Town Clerk



150 Emmons Street
Franklin, Massachusetts 02038

Deborah L. Pellegri
Town Clerk

Notary Public
Justice of the Peace

I, Deborah L. Pellegri, Town Clerk, Franklin, Massachusetts certify that the following information is true according to the Town Records:

Spring Street, From Washington Street to Central Street. part of Wadsworth's Railroad Station was accepted by the Town prior to 1870 and named by the Town at the Annual March Meeting adjourned April 4, 1870.

Attest:

Deborah L. Pellegri
Deborah L. Pellegri, CMC, Town Clerk, Franklin, MA *Sept. 7, 2000*

ATTACHMENT IX

**Copy of package from 1994 related to consideration for abandonment of
Spring Street**

MEMORANDUM

SUBJECT: Possible Closing of Spring Street

TO: RPSO, DPW, Assessor, Town Clerk, Planning Board, Town Attorney

FROM: Town Administrator

DATE: November 6, 1994

1. Recent building at Forge Park has brought up the issue of Spring Street and its status as an accepted street of the Town of Franklin. The reason this is an important subject is related to the lack of a requirement of paving and providing infrastructure by developers on an existing Town street. We recently faced the same issue on Bacon Street and Acorn Place.
2. Closing the street would place the development burden onto individual property owners and developers, away from the Town. However, it may well also provide for negative impacts. One of those impacts may be that the road will not be developed in the same area as the current right of way. Another relates to the Franklin Forest. If closed, would DAM allow future passage.
3. Please review the pros and cons of closing Spring Street and provide me with your conclusions by Dec 28, 1994. RPSO will coordinate the effort and consolidate a recommendation to the Franklin Town Council.
4. Please let me know if you have any additional questions.

REGIONAL PLANNING SERVICES OFFICE (RPSO)
**** FUNDED BY EOCD ** FOR THE TOWNS OF**
FRANKLIN - NORFOLK - WRENTHAM

Municipal Building 150 Emmons St. FRANKLIN MA 02038

E. Winn Davis
Paige E. Duncan
(508) 520-4907
(508) 528-7900
fax:(508) 520-4903

14 November 1994

MEMO TO: DPW, Assessor, Town Clerk & Town Attorney

FROM: E. Winn Davis, Principal Planner

RE: Spring Street Abandonment Analysis

Pursuant to the memorandum from the Town Administrator, dated 6 November 1994 and attached hereto, I would request that all parties meet at 3:30 pm on the 16th of November 1994, in Town Council Chambers, to discuss the process and schedule necessary to meet the deadline of 28 December 1994.

Thank you for your co-operation.

RECEIVED
NOV 14 PM 4:16
TOWN OF FRANKLIN
TOWN CLERK

nov 30

PROJECT ADVISORY COMMITTEE

FRANKLIN
Wolfgang Bauer
Edward Yadisernia

NORFOLK
Austen Smithers
Alexander Vispoli

WRENTHAM
C. Whiting Rice
Susan Seymour

MEMORANDUM

To: Wolfgang Bauer, Town Administrator
From: Mark J. Lanza, Town Attorney
Re: Statutory Requirements for Abandonment and
Discontinuance of Public Ways
Date: November 14, 1994

The following is the procedure that must be followed for abandoning and discontinuing public ways.

1. CONFORMITY WITH MAP; REVIEW BY PLANNING BOARD

If the Town has not accepted an official map, the proposed discontinuance must be referred to the Planning Board, which has 45 days to render a report. G.L. c.41, § 81I. If the Town has adopted an official map, the proposed discontinuance must be in accordance with that map unless the proposal is first referred to the Planning Board, which has 45 days to render a report. G.L. c.41, § 81G.

2. VOTE BY TOWN COUNCIL

Following a report by the Planning Board or the lapse of 45 days from the date of filing the proposal with the Board, the Town Council may vote on a proposal to discontinue a public way (G.L. c.82, § 21) A majority vote is required. No specific notice is required; however, notice to all affected abutters is advisable.

3. DAMAGES

Any person who sustains damage to his/her property by the discontinuance of a public way shall be entitled to recover damages under G.L. c.79, and G.L. c.82, § 24.

4. FEE OR EASEMENT

Where the Town has taken a fee interest or an easement in the road by eminent domain a two-thirds vote by the Town Council is required before the fee can be conveyed or easement declared abandoned. (G.L. c.40, §15) A fee interest shall be

MEMORANDUM

To: Wolfgang Bauer, Town Administrator
From: Mark J. Lanza, Town Attorney
Re: Statutory Requirements for Abandonment and
Discontinuance of Public Ways
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20ks - meeting

REGIONAL PLANNING SERVICES OFFICE (RPSO)
**** FUNDED BY EOCD ** FOR THE TOWNS OF**
FRANKLIN - NORFOLK - WRENTHAM

Municipal Building 150 Emmons St. FRANKLIN MA 02038

E. Winn Davis
Paige E. Duncan
(508) 520-4907
(508) 528-7900
fax: (508) 520-4903

16 November 1994

MEMO TO: DPW, TOWN CLERK, TOWN ATTORNEY, ASSESSORS

FROM: E. Winn Davis, Principal Planner

RE: Spring Street Abandonment Analysis

INITIAL MEETING

- I. Establish Schedule
- II. Establish Responsibilities
 - a. Legal:
 - 1. Identify Process of Abandonment
 - 2. Identify Ownership/Rights Issues
 - 3. Identify Future Boundary of Zoning
 - 4. Identify Damages - both in \$ and in loss of frontage
 - b. Planning:
 - 1. Identify Access Issues
 - 2. Identify Current Zoning/Future Boundary of Zoning
 - 3. Identify Road Locational Issues
 - 4. Identify Potential Land Uses
 - c. DPW:
 - 1. Quantify Cost of Improvement
 - 2. Identify Need to Improve
 - 3. Identify Impacts on Town Services if Abandoned
Water; Sewer; Road
 - 4. Identify Alternative Road Locations

PROJECT ADVISORY COMMITTEE

FRANKLIN
Wolfgang Bauer
Edward Yadisernia

NORFOLK
Austen Smithers
Alexander Vispoli

WRENTHAM
C. Whiting Rice
Susan Seymour



TOWN OF FRANKLIN
TOWN CLERK

FILE

1994 DEC 29 PM 1:31

REGIONAL PLANNING SERVICES OFFICE (RPSO)
**** FUNDED BY EOCD ** FOR THE TOWNS OF**
FRANKLIN - NORFOLK - WRENTHAM

RECEIVED **E. Winn Davis**
Paige E. Duncan
(508) 520-4907
(508) 528-7900
fax:(508) 520-4903

Municipal Building 150 Emmons St. FRANKLIN MA 02038

28 December 1994

Wolfgang Bauer, Town Administrator
Town of Franklin
Franklin, Mass.

RE: Possible Closing of Spring Street

Per your direction of 6 November 1994, I have met with the Ron Massey and Bruce Babcock of the DPW; Deborah Pellegrini, Town Clerk; Mark Lanza, Esq., Town Attorney; and William Powers of the Assessors office. We have met several times over the past six weeks, beginning on 16 November and as recently as the 21st of December 1994. (see Ex. "A") I have also met with the Fire Expansion Committee and Fire Chief Hoyle at a meeting where the issue of Spring Street was discussed.

The Town Clerk and the Assessor's office were extremely helpful in providing documentation and information in the early stages, and their support is acknowledged and appreciated. Ms. Pellegrini provided documents concerning the apparent laying out of Spring Street in 1808, (see Ex. "B"). Attorney Lanza will respond to the effect and legal status of this documentation.

I have made several site visits to the area, and after several meetings with DPW, Fire and at least one member of the Planning Board, I am prepared to recommend that Spring Street not be abandoned.

I make this recommendation based on future traffic needs for the town, especially on issues of public safety, and for the following reasons:

1. The only north-south route from Rte 140 to Washington Street is currently Grove Street, which area covers a sizeable portion of the southerly 1/3 of Franklin. Grove Street presently meanders more than Spring Street and comes very easterly to Rte 495. I understand that Prospect Street also exists, but it is not entirely within the Town of Franklin, and its construction and design make it even less acceptable than Grove Street.

The cost of improving Spring Street would be in excess of \$2,000,000.00, as estimated by Bruce Bacock, P. E.

I believe that this recommendation reflects the views of the DPW, the Fire Department and the Town Attorney.

Sincerely,

E. Winn Davis

REGIONAL PLANNING
SERVICES OFFICE

-2-

- d. Assessors:
 - 1. Quantify Impact of Reduced Assessments
 - 2. Identify Ownership Issues/Documentation
 - e. Town Clerk:
 - 1. Provide Official Record Status of Road
 - 2. Provide Official Documentation on Zoning in Area
- III. Schedule Review Meeting: Suggest 30 November 1994
Attendance by all Requested
- IV. Schedule Draft Response Meeting Suggest 14 December 1994
Draft prepared by RPSO and circulated in advance
Attendance open to all
- V. Submit Response Suggest 21 December 1994
- VI. Meet with Town Council Expect 28 December 1994

PROJECT ADVISORY COMMITTEE

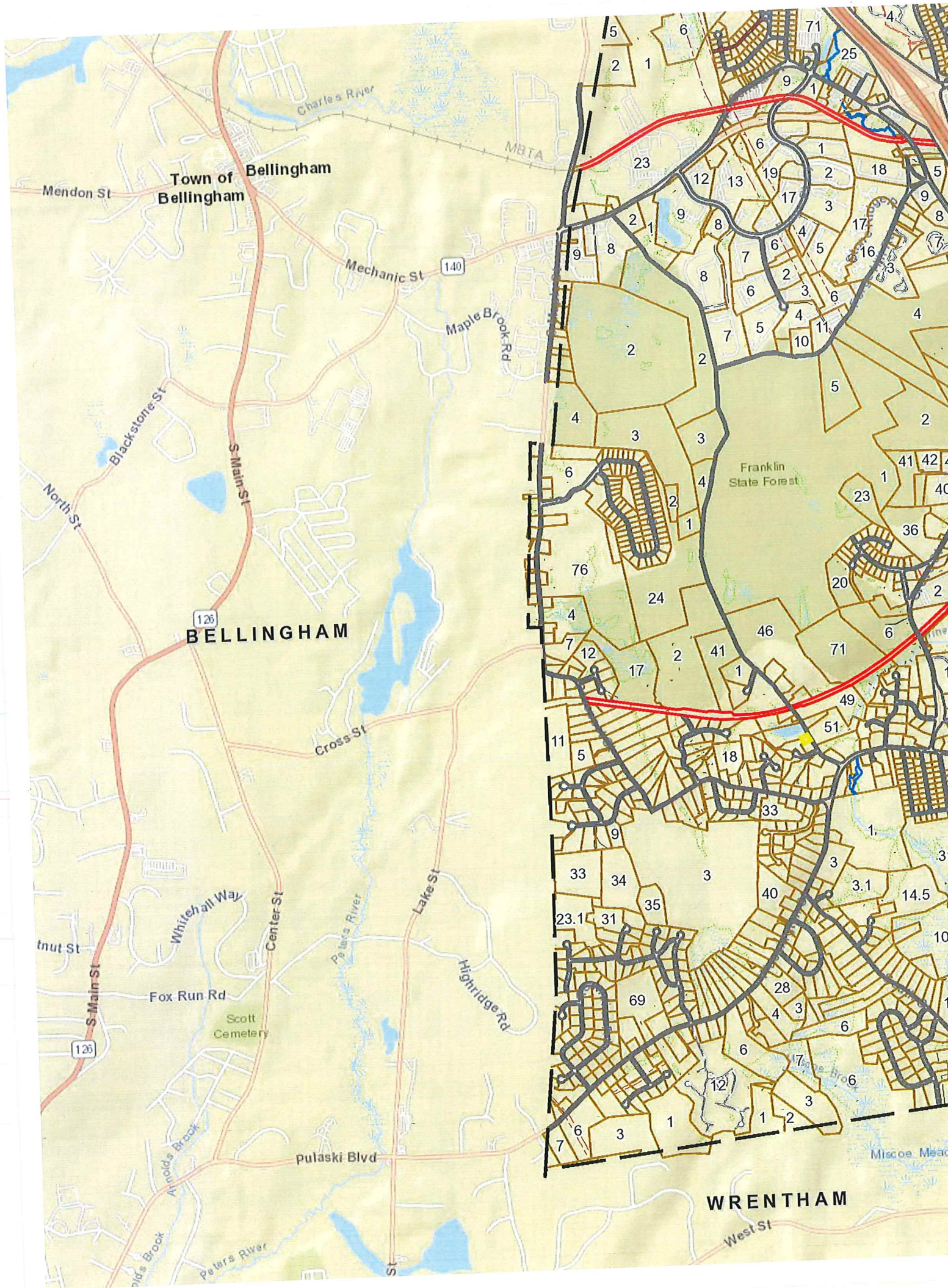
FRANKLIN
Wolfgang Bauer
Edward Yadisernia

NORFOLK
Austen Smithers
Alexander Vispoli

WRENTHAM
C. Whiting Rice
Susan Seymour

ATTACHMENT X

Spring Street direct Abutters Map





Spring Street Abutters

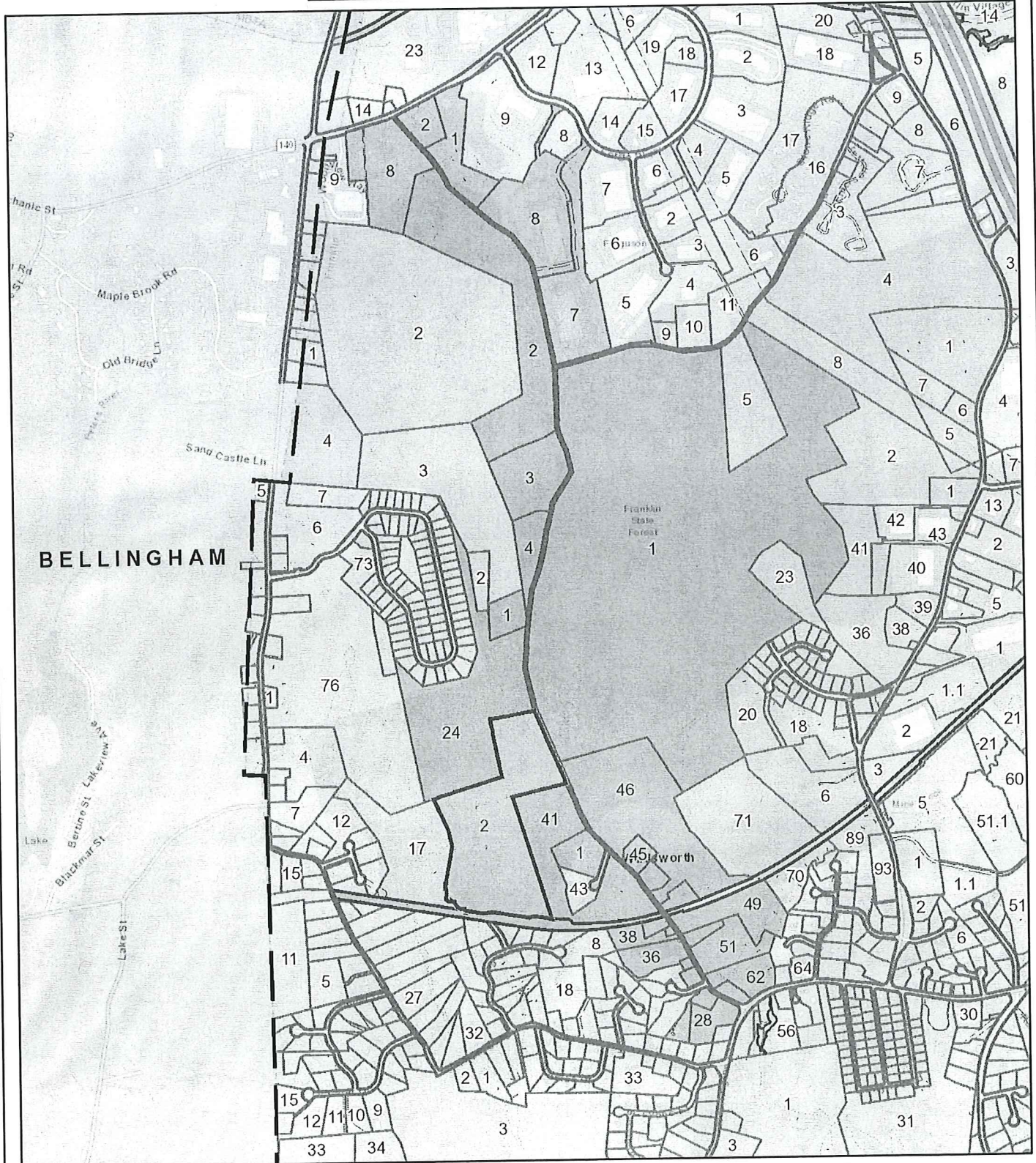
Franklin, MA



June 2, 2023

1 inch = 1600 Feet

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This information is believed to be correct but is subject to change and is not warranted.

ATTACHMENT XI
Spring Street Abutters Report



1 foot Abutters List Report

Franklin, MA
June 02, 2023

Subject Property:

Parcel Number: 310-002-000
CAMA Number: 310-002-000-000
Property Address: 60 SPRING ST

Mailing Address: LEWIS STREET REALTY LLC
28 TIA PL
FRANKLIN, MA 02038

Abutters:

Parcel Number: 274-001-000
CAMA Number: 274-001-000-000
Property Address: 1256 WEST CENTRAL ST

Mailing Address: GTE FRANKLIN REALTY LLC
PO BOX 2844
BROCKTON, MA 02305

Parcel Number: 274-002-000
CAMA Number: 274-002-000-000
Property Address: 1280 WEST CENTRAL ST

Mailing Address: KAD HOLDINGS CORP
1 CHARLESVIEW RD
HOPEDALE, MA 01747

Parcel Number: 274-008-000
CAMA Number: 274-008-000-000
Property Address: 100 WOODVIEW WAY

Mailing Address: BR WESTERLY DST C/O BLUEROCK
REAL ESTATE
27777 FRANKLIN ROAD - SUITE 900
SOUTHFIELD, MI 48034

Parcel Number: 290-007-000
CAMA Number: 290-007-000-000
Property Address: 34 FORGE PKWY

Mailing Address: PIERCE REALTY LLC
34 FORGE PKY
FRANKLIN, MA 02038

Parcel Number: 290-008-000
CAMA Number: 290-008-000-000
Property Address: 32 FORGE PKWY

Mailing Address: KNICKERBOCKER PROPERTIES INC
C/O MARVIN F POER & COMPANY
3520 PIEDMONT RD NE SUITE 410
ATLANTA, GA 30305

Parcel Number: 293-001-000
CAMA Number: 293-001-000-000
Property Address: FORGE HILL RD

Mailing Address: COMMONWEALTH OF
MASSACHUSETTS DIVISION OF STATE
PARKS AND RE
251 CAUSEWAY ST, STE 600
BOSTON, MA 02114

Parcel Number: 293-002-000
CAMA Number: 293-002-000-000
Property Address: SPRING ST

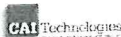
Mailing Address: COMMONWEALTH OF MASS
DEPARTMENT OF CONSERVATION
251 CAUSEWAY STREET
BOSTON, MA 02114

Parcel Number: 293-003-000
CAMA Number: 293-003-000-000
Property Address: SPRING ST

Mailing Address: DEPT OF CONSERV AND REC
COMMONWEALTH OF
MASSACHUSETTS
251 CAUSEWAY ST - SUITE 600
BOSTON, MA 02114-2104

Parcel Number: 307-001-000
CAMA Number: 307-001-000-000
Property Address: SPRING ST

Mailing Address: FRANKLIN TOWN OF
355 EAST CENTRAL ST
FRANKLIN, MA 02038



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6/2/2023

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Abutters List Report - Franklin, MA



1 foot Abutters List Report

Franklin, MA
June 02, 2023

Parcel Number: 307-004-000
CAMA Number: 307-004-000-000
Property Address: SPRING ST

Mailing Address: COMMONWEALTH OF MASS
CONSERVATION AND RECREATION
251 CAUSEWAY ST
BOSTON, MA 02114

Parcel Number: 308-024-000
CAMA Number: 308-024-000-000
Property Address: OXFORD DR

Mailing Address: FRANKLIN TOWN OF
355 EAST CENTRAL STREET
FRANKLIN, MA 02038

Parcel Number: 310-001-000
CAMA Number: 310-001-000-000
Property Address: 30 SPRING ST

Mailing Address: COCHRAN HARRY&BARBARA TRS 30
SPRING ST REALTY TR
30 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 310-002-000
CAMA Number: 310-002-000-000
Property Address: 60 SPRING ST

Mailing Address: LEWIS STREET REALTY LLC
28 TIA PL
FRANKLIN, MA 02038

Parcel Number: 322-061-000
CAMA Number: 322-061-000-000
Property Address: 803 WASHINGTON ST

Mailing Address: MACHARASHVILI PAATA TR
WASHINGTON 803 NOMINEE TR
41 ERICA DR
STOUGHTON, MA 02072

Parcel Number: 322-062-000
CAMA Number: 322-062-000-000
Property Address: 797 WASHINGTON ST

Mailing Address: MYSORES SRINIVAS SRIKRISHNA
MURALI SHRUTHI
820 NORTH ABBOTT AVE
MILPITAS, CA 95035

Parcel Number: 323-028-000
CAMA Number: 323-028-000-000
Property Address: 823 WASHINGTON ST

Mailing Address: DEPOTO RICHARD J & SANDRA M, TRS
THE DEPOTO FAMILY REALTY TRUST
825 WASHINGTON ST
FRANKLIN, MA 02038

Parcel Number: 323-029-000
CAMA Number: 323-029-000-000
Property Address: 4 DOM LEA CIR

Mailing Address: STEWART DONALD D STEWART JUDITH
M
4 DOM LEA CIR
FRANKLIN, MA 02038

Parcel Number: 323-034-000
CAMA Number: 323-034-000-000
Property Address: 6 SPRING ST

Mailing Address: GLEASON RALPH E JR GLEASON
CATHERINE
6 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-035-000
CAMA Number: 323-035-000-000
Property Address: 8 SPRING ST

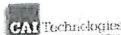
Mailing Address: BRUNELLI CLEMENT T & DONNA A L/E
GLEASON CATHERINE MACINTOSH
SUSAN A
8 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-036-000
CAMA Number: 323-036-000-000
Property Address: 8-A SPRING ST

Mailing Address: DEWITT GERRITT D DEWITT KRISTIN D
8 A SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-038-000
CAMA Number: 323-038-000-000
Property Address: SPRING ST

Mailing Address: LUSZCZ HELEN T & BRIAN M C/O BRIAN
LUSZCZ & K ABNEY
10 SPRING ST
FRANKLIN, MA 02038



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6/2/2023

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Abutters List Report - Franklin, MA



1 foot Abutters List Report

Franklin, MA
June 02, 2023

Parcel Number: 323-039-000
CAMA Number: 323-039-000-000
Property Address: 10 SPRING ST

Mailing Address: LUSZCZ HELEN T & BRIAN M C/O BRIAN
LUSZCZ & K ABNEY
10 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-039-001
CAMA Number: 323-039-001-000
Property Address: SPRING ST

Mailing Address: MORSE PATRICIA L & DANIEL W TRS
WADSWORTH FARM REALTY TRUST
17 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-040-000
CAMA Number: 323-040-000-000
Property Address: PROSPECT ST

Mailing Address: COMMONWEALTH OF
MASSACHUSETTS DIVISION OF STATE
PARKS AND RE
251 CAUSEWAY STREET - SUITE 600
BOSTON, MA 02114-2104

Parcel Number: 323-041-000
CAMA Number: 323-041-000-000
Property Address: SPRING ST

Mailing Address: MORSE PATRICIA L TR L/E
WADSWORTH FARM REALTY TRUST
MORSE, DANIEL W TR
17 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-042-000
CAMA Number: 323-042-000-000
Property Address: COCHRAN WAY

Mailing Address: COCHRAN HARRY G & BARBARA E
30 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-045-000
CAMA Number: 323-045-000-000
Property Address: 17 SPRING ST

Mailing Address: MORSE PATRICIA L
17 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-045-001
CAMA Number: 323-045-001-000
Property Address: 15 SPRING ST

Mailing Address: MORSE DANIEL W MORSE KRISTEN J
17 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-046-000
CAMA Number: 323-046-000-000
Property Address: SPRING ST

Mailing Address: MORSE PATRICIA L & DANIEL W TRS
WADSWORTH FARM REALTY TRUST
17 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-047-000
CAMA Number: 323-047-000-000
Property Address: 13 SPRING ST

Mailing Address: JETTE RYAN J JETTE SHERI L
13 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-049-000
CAMA Number: 323-049-000-000
Property Address: 11 SPRING ST

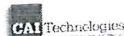
Mailing Address: HEHN ROBERT S & SUSAN E TRS 11
SPRING ST FUNDING TRUST
11 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-050-000
CAMA Number: 323-050-000-000
Property Address: 9 SPRING ST

Mailing Address: MANLEY MICHAEL
9 SPRING ST
FRANKLIN, MA 02038

Parcel Number: 323-051-000
CAMA Number: 323-051-000-000
Property Address: 7 SPRING ST

Mailing Address: TRAHAN STEPHEN R TRAHAN
GABRIELLE A
7 SPRING ST
FRANKLIN, MA 02038



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6/2/2023

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Abutters List Report - Franklin, MA

